

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

WAYNE RICHARDSON,

Plaintiff,

v.

SANDRA CARTER, *et al*,

Defendants.

Case No. C06-5324FDB-KLS

ORDER DENYING PLAINTIFF'S  
MOTION FOR APPOINTMENT  
OF COUNSEL

This matter has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1), Local Magistrates Rules MJR 3 and 4, and Rule 72 of the Federal Rules of Civil Procedure. The case is before the Court upon plaintiff's filing of a motion for appointment of counsel. (Dkt. #12). Plaintiff has been granted *in forma pauperis* status in this case. After reviewing the motion and the balance of the record, the Court finds and ORDERS as follows:

There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. While the court, under 28 U.S.C. § 1915(e)(1), can request counsel to represent a party proceeding *in forma pauperis*, it may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of plaintiff to articulate his claims *pro se* in light of the complexity

1 of the legal issues involved. Wilborn, 789 F.2d at 1331.

2 Plaintiff requests appointment of counsel because he is unable to afford an attorney, has requested  
3 and been granted *in forma pauperis* status, and imprisonment will greatly limit his ability to litigate this  
4 case. He further asserts that because this case is likely to involve conflicting testimony, appointed counsel  
5 will be better able to present evidence and examine witnesses on his behalf. These circumstances though  
6 are ones that affect the majority of prisoners in general. As such, plaintiff has failed to demonstrate there  
7 are exceptional circumstances here warranting appointment of counsel. In particular, plaintiff has not  
8 shown a likelihood of success on the merits or that, regardless of the potential for conflicting testimony,  
9 the legal issues involved here are necessarily complex.

10 Accordingly, for the reasons set forth above, plaintiff's motion for appointment of counsel (Dkt.  
11 #12) hereby is DENIED.

12 The clerk is directed to send a copy of this Order to plaintiff.

13 DATED this 17th day of October, 2006.

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17 Karen L. Strombom  
18 United States Magistrate Judge  
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